



Notice 1350

(October 2005)

New Tax Law Eases Loss Limitations for Taxpayers Affected by Hurricane Katrina

This notice provides information about a recent change to the tax law that lifts certain loss limitations for taxpayers who suffered casualty or theft losses as a result of Hurricane Katrina. It also provides specific instructions for taxpayers who wish to file for the loss on their 2004 tax return.

Ordinarily, to figure a deduction for a casualty or theft loss to property you own for personal use, you must reduce the loss by \$100 and also reduce the total of your casualty and theft losses by 10 percent of your adjusted gross income. Only the excess over these \$100 and 10% limits is deductible. The new law removes these limits for Hurricane Katrina losses, so that the entire amount is deductible.

To qualify, a loss must be attributable to Hurricane Katrina and it must have occurred after August 24, 2005, in the area declared by the President as a disaster area because of Hurricane Katrina. The \$100 and 10% limits still apply to losses that were not caused by Hurricane Katrina, even if they occurred in the disaster area.

Like all casualty and theft losses, these losses must be claimed as an itemized deduction. If you take the standard deduction you cannot claim them. You cannot claim a deduction for any part of a loss for which you receive or expect to receive insurance or other reimbursement.

Casualty and theft losses are generally deductible only in the year the casualty occurred or the theft was discovered. However, because a Hurricane Katrina loss is a disaster loss, you have the option to deduct it on your tax return for the previous year, 2004. The \$100 and 10% limits will not apply to that loss in redetermining your 2004 tax. If you have already filed your 2004 return, the loss may be claimed by filing an amended return, Form 1040X, for 2004. See the back of this notice for information on claiming the loss for 2004.

Claiming the loss on an original or amended return for 2004 will provide you an earlier refund, but waiting to claim the loss on your 2005 return could result in a greater tax saving, depending on your tax situation for 2005. If you wish to claim the loss for 2004, you generally have until the due date for filing your 2005 return, not counting extensions, to do so. For most taxpayers, this is April 17, 2006. In addition, if your loss causes your deductions to be more than your income for the year you claim the loss, you may have a net operating loss (NOL). An NOL may allow you to get a refund for tax you already paid or lower your tax in a future year.

For more information on deducting disaster losses, see Publication 547, Casualties, Disasters, and Thefts, and Publication 536 regarding NOLs, available on the IRS website (www.irs.gov). **Keep in mind that Publication 547 has not been updated to reflect the new law.** More information on disaster areas can be found at the Federal Emergency Management Agency (FEMA) website (www.fema.gov/news/disasters.fema).

Taxpayers with Hurricane Katrina related questions can call the special IRS disaster hotline at 1-866-562-5227.

(Continued on back)

SPECIFIC INSTRUCTIONS for taxpayers who wish to claim a Hurricane Katrina casualty or theft loss for 2004

Taxpayers who choose to claim the casualty or theft loss for 2004 should use the following additional instructions as they complete their forms:

Taxpayers filing or amending their 2004 tax return and whose only casualty or theft losses to personal use property claimed on that return were caused by Hurricane Katrina should write in red ink "Hurricane Katrina" at the top of Form 1040 or 1040X. They must also complete and attach the 2004 Form 4684, Casualties and Thefts, and write "Hurricane Katrina" on the dotted line next to line 11 and enter -0- on lines 11 and 17 of Form 4684.

Taxpayers filing or amending their 2004 tax return and who also have casualty or theft losses to personal use property not related to Hurricane Katrina should disregard the caution directing taxpayers to use only one Form 4684, located above line 13, and complete lines 13 through 18 for two Forms 4684.

- The Form 1040 or 1040X and the first Form 4684 should be prepared as explained above for Hurricane Katrina losses only.
- The second Form 4684 should be prepared in the normal manner for all gains and non-Hurricane Katrina losses.
- If both Forms 4684 have a loss on line 18, they should carry the combined losses from that line to Schedule A (Form 1040), line 19.
- If there is a gain on line 15 of the second Form 4684, disregard the instruction to enter it on Schedule D, and instead enter on Schedule A (Form 1040), line 19, the excess of the loss from the first Form 4684 over the gain on line 15 of the second Form 4684.

